

REMARKS

In the Office Action, the Office indicated that claims 1 through 27 are pending in the application and the Office rejected all of the claims.

Rejections under 35 U.S.C. §§102 and 103

On page 2 of the Office Action, the Office rejected claims 1-9, 17, 19, and 24-27 under 35 U.S.C. §102(a) as being anticipated by PCT Publication No. WO 01/78319 to Ferguson et al. On page 8 of the Office Action, the Office rejected claims 10-16, 18, and 20-23 under 35 U.S.C. §103(a) as being unpatentable over Ferguson in view of European Patent No. EP 0794646 to Hild.

The Cited Prior Art Does Not Anticipate the Claimed Invention

Claim 1 currently recites creating a change log that lists all objects to be replicated between a mobile device and a server, and assigning first and second parameters, which are *applied by a network operator*. The first claimed parameter is a single weight associated with each object that defines how urgently that object needs to be replicated. The second claimed parameter is a threshold that is a function of time.

Regarding the first claimed parameter, in the Office Action, the Office contends that the first parameter of claim 1, a single weight associated with each object that defines how urgently that object needs to be replicated, is disclosed in the list of criteria given at page 49, lines 5 to 17 of Ferguson. However, it is submitted that only three of these criteria in

Ferguson are “network parameters received from the base station”. These are (see Ferguson, page 49, lines 14 to 17):

- (i) a duty cycle based on activity level;
- (ii) the number of other mobiles currently using the same base station; and
- (iii) the purchased support level of network airtime.

None of these three *network parameters* are (or could be construed as) a single weight associated with each object that defines how urgently that object needs to be replicated as is currently claimed; rather they are characteristics of the network. For this reason alone, the claimed invention is novel over (and non-obvious in view of) Ferguson.

Next, regarding the second claimed parameter, the Office further contends that Ferguson discloses, at page 52, lines 20 to 22, a network operator assigning “a threshold that is a function of time, with the single weight of each object being locally compared to the threshold at a given time and the outcome of the comparison determining whether the object is sent for replication or not at that time”, as claimed in claim 1.

The cited passage of Ferguson recites that “the sending logic of the software will have certain criteria used to decide whether to send immediately”. Thus, these criteria are a part of the sending logic of the software and are not applied *by a network operator*, in contrast to the first and second parameters of claim 1. Furthermore, there is no disclosure in Ferguson of the “certain criteria” being functions of time, nor of the single weight of each object being locally compared to the threshold at a given time and the outcome of the comparison determining whether the object is sent for replication or not at that time. Instead, the sending logic of the software in Ferguson simply checks if the current time is considered to be off-peak hours and, if so, sends the data item immediately.

Thus, Ferguson does not disclose either of the first and second parameters as claimed in claim 1 and claim 1 is novel. By virtue of the dependency, claims 2 to 27 are also novel.

A Prima Facie Case of Obviousness Has Not Bee Established

All the remaining claims are dependent on claim 1 and therefore are novel over Ferguson. The addition of Hild does not teach or suggest the elements above that are identified as not being found in Ferguson (and the Office has not asserted that it does). Thus, all of the claims patentably define over Ferguson and/or Hild, both alone or in combination.

Accordingly, the Office is respectfully requested to reconsider and withdraw the rejection of claims 10-16, 18, and 20-23 under 35 USC §103.

Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Office is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to applicant's Deposit Account No. 50-4364.

Respectfully submitted

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